

2016 -- S 2492

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO CRIMINAL OFFENSES -- WEAPONS

Introduced By: Senators Coyne, Nesselbush, Paiva Weed, Conley, and Goodwin

Date Introduced: February 25, 2016

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1           SECTION 1. Chapter 11-47 of the General Laws entitled "Weapons" is hereby amended  
2 by adding thereto the following section:

3           **11-47-5.3. Surrender of firearms by persons convicted of domestic violence offenses.**

4       == (a) Pleading nolo contendere to or conviction of an offense under §12-29-2 which is punishable  
5 as a felony shall prohibit the defendant from purchasing, owning, carrying, transporting, or  
6 having in their possession or control any firearm. Upon such a plea or conviction, the court shall  
7 issue an order declaring that the defendant surrender all firearms owned by the defendant, or in  
8 the defendant's possession, care, custody or control as described in this section.

9           (1) Surrender shall be made within twenty-four (24) hours of prohibition to the Rhode  
10 Island state police or local police department or to a federally licensed firearms dealer. A law  
11 enforcement agency or federally licensed firearms dealer taking possession of a firearm shall  
12 issue proof of surrender to the person surrendering the firearm(s). The proof of surrender must  
13 include the name of the person, the date of surrender, the serial number, the manufacturer, and  
14 model of all surrendered firearms.

15           (2) The defendant shall, within forty-eight (48) hours after being served with the order,  
16 either:

17           (i) File a copy of proof of surrender with the court and attest that all firearms owned by  
18 the defendant or in the defendant's possession, care, custody or control at the time of the plea or  
19 conviction have been surrendered in accordance with this section and that the defendant currently

1 owns no firearms or has any firearms in their care, custody or control; or

2 (ii) Attest that, at the time of the plea or conviction, the defendant owned no firearms and  
3 had no firearms in their care, custody or control, and that the defendant currently owns no  
4 firearms and has no firearms in their possession, care, custody or control.

5 (3)(i) If the defendant surrenders a firearm to a law enforcement agency, the law  
6 enforcement agency shall follow the policies established by the police officer's commission on  
7 standards and training for the return or disposal of the firearm.

8 (ii) The police officer's commission on standards and training shall establish policies for  
9 the return or disposal of firearms that are surrendered pursuant to any court order provided that  
10 such policies require that the defendant be notified of the return or disposal, and that the owner  
11 receive any financial value received from the disposal, less the cost associated with taking  
12 possession of, storing, and disposing of the firearm and provided that no disposal shall occur  
13 while any appeal of the conviction is pending.

14 (4) If the defendant transfers a firearm to a federally licensed firearms dealer pursuant to  
15 this section, that federally licensed firearms dealer may dispose of the firearm in any manner  
16 permitted by state or federal law.

17 SECTION 2. Section 12-29-5 of the General Laws in Chapter 12-29 entitled "Domestic  
18 Violence Prevention Act" is hereby amended to read as follows:

19 **12-29-5. Disposition of domestic violence cases.** -- (a) Every person convicted of or  
20 placed on probation for a crime involving domestic violence or whose case is filed pursuant to §  
21 12-10-12 where the defendant pleads nolo contendere, in addition to any other sentence imposed  
22 or counseling ordered, shall be ordered by the judge to attend, at his or her own expense, a  
23 batterer's intervention program appropriate to address his or her violent behavior; provided,  
24 however, that the court may permit a servicemember or veteran to complete any court-approved  
25 counseling program administered or approved by the Veterans' Administration. This order shall  
26 be included in the conditions of probation. Failure of the defendant to comply with the order shall  
27 be a basis for violating probation and/or the provisions of § 12-10-12. This provision shall not be  
28 suspended or waived by the court.

29 (b) Every person convicted of or placed on probation for a crime involving domestic  
30 violence, as enumerated in § 12-29-2 or whose case if filed pursuant to § 12-10-12 where the  
31 defendant pleads guilty or nolo contendere, in addition to other court costs or assessments  
32 imposed, shall be ordered to pay a one hundred twenty-five dollar (\$125) assessment. Eighty  
33 percent (80%) of the assessment collected pursuant to this section shall be provided to the Rhode  
34 Island Coalition Against Domestic Violence for programs to assist victims of domestic violence

1 and twenty percent (20%) of the assessment shall be deposited as general revenue.

2 (c) (1) Every person convicted of an offense punishable as a misdemeanor involving  
3 domestic violence as defined in § 12-29-2 shall:

4 (i) For a second violation be imprisoned for a term of not less than ten (10) days and not  
5 more than one year.

6 (ii) For a third and subsequent violation be deemed guilty of a felony and be imprisoned  
7 for a term of not less than one year and not more than ten (10) years.

8 (2) No jail sentence provided for under this section can be suspended.

9 (3) Nothing in this subsection shall be construed as limiting the discretion of the judges  
10 to impose additional sanctions authorized in sentencing.

11 (d) For the purposes of this section, "batterers intervention program" means a program  
12 which is certified by the batterers intervention program standards oversight committee according  
13 to minimum standards, pursuant to §§ 12-29-5.1, 12-29-5.2, and 12-29-5.3.

14 (e) For purposes of this section, "servicemember" means a person who is presently  
15 serving in the armed forces of the United States including the Coast Guard, a reserve component  
16 thereof, or the National Guard. "Veteran" means a person who has served in the armed forces,  
17 including the Coast Guard of the United States, a reserve component thereof, or the National  
18 Guard, and has been discharged under other than dishonorable conditions.

19 (f) The court shall indicate on every record of conviction or a plea of nolo contendere for  
20 an offense punishable as a felony involving domestic violence, as defined in §12-29-2, that the  
21 defendant is prohibited under §§11-47-5 and 11-47-5.3 from purchasing, owning, carrying,  
22 transporting, or having in their possession, any firearm. The court shall inform the defendant of  
23 their prohibited status and shall order the defendant to surrender any firearms in their ownership,  
24 possession, care, custody or control in accordance with §11-47-5.3.

25 (g) The defendant may, within sixty (60) days of the surrender of any firearm(s) pursuant  
26 to this section, petition the court to transfer the surrendered firearm(s) to an eligible third party.  
27 The court may transfer any firearm(s) surrendered to an eligible third party if, after a hearing, the  
28 court determines that:

29 (i) There is no legal prohibition against the intended recipient or transferee from owning  
30 or possessing a firearm; and

31 (ii) The transfer would not endanger any victim.

32 (h) No proceeds shall be provided to any person if the firearm(s) is destroyed pursuant to  
33 this section.

34 (i) Any firearm(s) used in the commission of the offense leading to the conviction and

1 [surrender pursuant to this this section shall be forfeited to the state upon conviction.](#)

2 SECTION 3. This act shall take effect on January 1, 2017.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO CRIMINAL OFFENSES -- WEAPONS

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1           This act would require that any person convicted of a felony domestic offense be ordered  
2 by the court to surrender all firearms in their possession, care, custody or control to either the  
3 state or local police, or federally licensed firearms dealer and that they file proof of surrender of  
4 those firearms with the court having jurisdiction over the case.

5           This act would take effect on January 1, 2017.

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